

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070862
	:	TRIAL NO. B-0705855
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
VERNON S. MADDEN,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant, Vernon S. Madden, appeals the judgment of the Hamilton County Court of Common Pleas convicting him of felonious assault and ordering him “TO PAY RESTITUTION THROUGH THE PROBATION DEPARTMENT IN AN AMOUNT NO MORE THAN \$10,000.00 * * *.” (Capitals sic.)

We sua sponte dismiss the appeal. When a trial court defers sentencing on the issue of restitution, its order does not fully determine the action under R.C. 2505.02(B)(1).² In this case, the court delegated the determination of restitution to the probation department and did not journalize a final amount of restitution. The trial court’s judgment is not a final appealable order, and we accordingly dismiss the appeal.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² *State v. Feltner* (Oct. 15, 2008), 1st Dist. No. C-080038, citing *In Re Holmes* (1980), 70 Ohio App.2d 75, 77, 434 N.E.2d 747. See, also, *State v. Phillips*, 8th Dist. No. 90124, 2008-Ohio-5101.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., HENDON and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 19, 2008
per order of the Court _____.
Presiding Judge